

REMARKS

Claims 1, and 5 are pending and under examination. The RCE and amendment submitted therewith on August 18, 2004 have been entered.

The Claim as Amended Is Patentable Over Kapperman in View of Bentsen

Claim 1 stands rejected as allegedly not patentable over Kapperman *et al.* (US 6,004,032) in view of Bentsen (US 4,673,383). Applicants respectfully traverse this rejection.

As the office action acknowledges, Kapperman *et al.* in view of Bentsen do not teach a single pair of ribs. While the Office Action at least implicitly acknowledges this, the rejection has been maintained. The Examiner reminds Applicant that the open claim language "comprising" in the transition of a claim does not exclude additional components. Nonetheless, where as here, the Applicant has distinguished his invention over the combination with such clear language that although the open term may apply to other elements of the claim, it is clear that the invention is directed to a fastener with a single pair of ribs as previously argued.

The Federal Circuit has repeatedly emphasized that an indefinite article 'a' or 'an' in patent parlance carries the meaning of 'one or more' in open-ended claims containing the transitional phrase 'comprising' ***unless the claim is specific as to the number of elements. A singular interpretation is appropriate in those (rare) circumstances when the patentee evinces a clear intent to so limit the article.*** *KCJ Corp. v. Kinetic Concepts, Inc.*, 223 F.3d 1351, 1356 (Fed. Cir. 2000).

Here, the patentee has adequately limited the claim in the prior amendment to a single pair of ribs. To further advance prosecution, and to further clarify, the present amendment provides that there is **one** single pair of ribs. The law does not require the applicant to further limit beyond what is necessary to satisfy the requirements of patentability. Here, the applicant need not amend the "comprising" language where he has satisfactorily overcome the examiner's prima facie case of obviousness and distinguished his invention over the art cited.

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PATENT

Recently in *Scanner Techs. Corp. v. ICOS Vision Sys. Corp. N.V.*, (365 F.3d 1299 (Fed. Cir. 2004)) the Federal Circuit held that the district court erred in limiting "an illumination apparatus," and thus "illuminating," to an apparatus containing only a single illumination source. The court there held that:

"an illumination apparatus" is properly construed to encompass one or more illumination sources *because the patentee has not evinced a clear intent to limit the article "an" to a single illumination source in either the claims or specification of the '756 patent.*"

Accordingly, the claim is allowable and it is respectfully requested that the rejection be withdrawn.

Id. at 1304 (Fed. Cir. 2004))

Conclusion:

Applicant respectfully asserts that the claimed invention is distinguished over the cited art, and has been adequately clarified as directed to the singular interpretation. An early and favorable Action in that regard is earnestly solicited. Applicant further asserts that this amendment and the remarks herein are fully responsive to the outstanding Office Action. The examiner is invited to address any outstanding issues with the Applicant's undersigned representative who may be reached at 215-557-5986 or by facsimile at 215-568-3439.

Respectfully submitted,

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